



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 17929610

Date: AUG. 26, 2021

**Appeal of Nebraska Service Center Decision**

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a financial analyst, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

On appeal, the Petitioner submits a brief asserting that he is eligible for a national interest waiver.

In these proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –

(A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will

substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

(i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien’s services in the sciences, arts, professions, or business be sought by an employer in the United States.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).<sup>1</sup> *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion<sup>2</sup>, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national’s proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual’s education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national’s qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national’s contributions; and whether the national interest in the foreign national’s contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s)

---

<sup>1</sup> In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm’r 1998) (*NYSDOT*).

<sup>2</sup> See also *Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

considered must, taken together, indicate that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.<sup>3</sup>

## II. ANALYSIS

Although not addressed in the Director's decision, the record contains evidence showing that the Petitioner received a bachelor's degree in mechanical engineering followed by a degree as "Executive MBA in Finances," a certificate showing the completion of a "Specialization Course in Business Administration," and at least five years of progressive work experience in the field of finance, thereby demonstrating eligibility for the EB-2 visa classification. Therefore, the issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

Regarding his claim of eligibility under *Dhanasar*'s first prong, the Petitioner stated that he intends to use his "expertise and knowledge in the fields of risk analysis, credit analysis, trade finance, operations and debt restructuring, and management of client portfolios" for the purpose of "providing [] expert advice to U.S. companies, financial institutions, startups and private individuals." The Petitioner claimed that his proposed endeavor will impact the United States because it will create investment opportunities that will enable "cross-border transactions" between the United States and Latin America, create jobs in the United States, attract foreign direct investment (FDI), and help clients make investment decisions that will increase their financial gains. The Petitioner stated that by increasing business revenues through his proposed endeavor, he will "boost the flow of money throughout the United States" and encourage foreign investments while helping U.S. companies and investors "navigate the complex Brazilian market," which the Petitioner described as having "the eighth largest economy in the world."

The record includes letters of support from the Petitioner's former colleagues documenting his work experience and professional achievements in the various positions he held in Brazil. Also included in the record are letters from the Petitioner's current business associates describing the work he intends to perform and steps he has taken to ensure the success of his proposed endeavor. In addition, the Petitioner provided articles and industry reports addressing the following topics: the benefits and growing rate of FDI in the United States, the significance of international trade and investment to the U.S. economy, the benefits of FDI to U.S. workers, the rising demand for financial planning services, and an overview and projections regarding the banking industry. The record therefore shows that the Petitioner's proposed work as a financial analyst has substantial merit.

However, in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; rather, the focus is on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and acknowledged that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects,

---

<sup>3</sup> *See Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

In the matter at hand, the Petitioner identified potential benefits of his proposed endeavor, claiming that it will “optimize the productivity and profitability levels of the U.S. business and financial markets” and “substantially increase revenues on behalf of the U.S. economy” thus enabling greater access to funds and increasing jobs in the U.S. job market. The Petitioner highlighted the economic benefits of the international companies operating in the United States and discussed the consulting company he started since filing this petition. He stated that the company is a “specialized international finance advisory firm” that will target family-owned businesses and private equity clientele whom the Petitioner will assist with business expansion and acquisition of international assets. The Petitioner further stated that his proposed endeavor will promote “a strong relationship” between FDI and the U.S. economy and job market, pointing to the four employees – one in New York and three in Florida – he has contracted so far and projecting three additional “collaborators” in the following year. The Petitioner anticipated that the benefits from the investments his clients will make “throughout the United States” will not be limited to Florida, where the Petitioner and his business are located, but rather that they will have a broader effect on a national scale.

To evaluate whether the Petitioner’s proposed endeavor satisfies the national importance requirement we look to evidence documenting the “potential prospective impact” of his work. Although the Petitioner’s statements reflect his intention to offer investment services to individual and corporate clients, he has not offered evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar* we determined that the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we conclude that the record does not show that the Petitioner’s proposed endeavor stands to sufficiently extend beyond his clientele to impact the U.S. economy or the financial services industry more broadly at a level that is commensurate with national importance.

On appeal, the Petitioner points out that he is currently working on projects that will involve a “significant amount of foreign direct investments” and maintains that his work will benefit the U.S. economy and lead to the creation of U.S. jobs. He reiterates that although his company headquarters is in Florida, his clients will engage in investment activities throughout the United States, thus reaching beyond a single geographic location and resulting in a broader impact. The Petitioner once again emphasizes the importance of FDI to economic growth, wealth creation, and standard of living, claiming that his proposed endeavor is highly focused on securing FDI throughout the United States.

Notwithstanding the benefits of the Petitioner’s endeavor to his clients and employees he hired and plans to hire, the Petitioner has not demonstrated that the endeavor has significant potential to employ U.S. workers or that the cumulative effect of the Petitioner’s activities will be so substantial that it rises to the level of national importance. Despite hiring four employees thus far and projecting that additional hires will take place in the future, the Petitioner has not shown that his proposed endeavor will impact future staffing levels or business activity to result in substantial economic benefits in Florida, where the Petitioner plans to carry out his proposed endeavor, or in the United States. And although the Petitioner’s endeavor has the potential to positively impact his clients’ respective financial positions through the consulting services he provides and plans to provide, the Petitioner has not

demonstrated that his activities will benefit the regional or national economy and result in the level of “substantial positive economic effects” as contemplated by *Dhanasar*. *Id.* at 890. In addition, the Petitioner has not offered sufficient evidence that the area where his company will operate is economically depressed, that he would utilize a significant population of workers in that area, or that his endeavor would offer the region or its population a substantial economic benefit through employment levels or business activity. Nor has the Petitioner demonstrated that any increases in employment or investment attributable to his proposed endeavor stand to substantially affect economic activity or tax revenue in Florida or in the United States. Accordingly, the Petitioner’s proposed work does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

### III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.